

FILED - CLERK
U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION
SEP 19 2007 AM 11:24
TX EASTERN - LUFKIN

DEBBIE PRESTRIDGE

Plaintiff

v.

MERCK & CO., INC.,

Defendant

Civil Action No. 9:07-cv-157

JURY TRIAL DEMANDED

WAIVER OF SERVICE OF SUMMONS

TO: Kenneth T. Fibich, Attorney for Plaintiffs, 1401 McKinney, Suite 1800, Houston, Texas 77010

I acknowledge receipt of your request that I waive service of a summons in the action of *Debbie Prestridge v. Merck & Co., Inc.*, which is cause number 9:07-CV-157 in the United States District Court for the Eastern District of Texas. I have also received two copies of the complaint in the action and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that MERCK & CO., INC. be served with judicial process in the manner provided by Fed. R. Civ. P. 4.

MERCK & CO., INC. will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against MERCK & CO., INC. if an answer or motion under Fed. R. Civ. P. 12 is not served upon you within 60 days.

Dated: September 7, 2007

Signature: Christina Gaarder

Christina Gaarder, Venable LLP,

Printed/Typed Name: 2 Hopkins Plaza, Suite 1800, Baltimore,

MD 21201

As Outside Counsel (TITLE) of

MERCK & CO., INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

DEBBIE PRESTRIDGE

Plaintiff

v.

MERCK & CO., INC.,

Defendant

Civil Action No. 9:07-cv-157

JURY TRIAL DEMANDED

AFFIDAVIT OF ERIN K. CORLEY

STATE OF TEXAS

HARRIS COUNTY

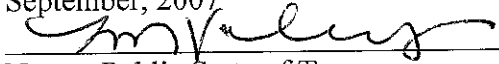
I, Erin K. Corley, being first duly sworn on oath, depose and state as follows:

1. I am over the age of eighteen and fully competent to make this affidavit. I am one of the attorneys representing the Plaintiff. I make this affidavit on behalf of my client in support of mailing the Notice of Lawsuit and Request for Waiver of Service to Defendant Merck & Co., Inc. on August 28, 2007.
2. Attached hereto are true and correct copies of the Certified Mail Return Receipt Requested and Certified Mail Receipt along with correspondence mailed to Merck & Co., Inc., c/o CT Corporation System on August 28, 2007.

DATED this 18th day of September 2007.


ERIN K. CORLEY

Subscribed and sworn to before me this 18th day of
September, 2007


Notary Public State of Texas

My commission expires: May 30, 2010

FIBICH, HAMPTON & LEEBRON, L.L.P.

ATTORNEYS AT LAW

FIVE HOUSTON CENTER
1401 MCKINNEY, SUITE 1800
HOUSTON, TEXAS 77010-9998

ERIN K. CORLEY

(713) 751-0025
FAX (713) 751-0030
E-MAIL: ECORLEY@FHL-LAW.COM

August 28, 2007

VIA CMRRR: 70041160000281005100

MERCK & CO., INC.
c/o CT Corporation System
350 N. St. Paul Street
Dallas, Texas 75201

RE: **NOTICE OF LAWSUIT & REQUEST FOR WAIVER OF SERVICE**

Debbie Prestridge v. Merck & Co., Inc.
U.S.D.C. for the Eastern District of TX
Case No. 9:07-CV-157

To Whom It May Concern:

Pursuant to Federal Rule of Civil Procedure 4(d), this letter serves as notice to you that a lawsuit has been commenced against MERCK & CO., INC. A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Eastern District of Texas and has been assigned docket number 9:07-CV-157.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver **within 30 days** after the date designated above as the date on which this notice and request is sent. I enclose self-addressed stamped envelope for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent.

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of summons, which is set forth on the enclosed waiver form.

Sincerely,

FIBICH, HAMPTON & LEEBRON, LLP

BY: Erin K. Corley
Erin K. Corley

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Merck & Co, Inc.
 c/o CT Corporation System
 350 N. St. Paul Street
 Dallas, TX 75201

prestridge-foxamer

2. Article Number
(Transfer from service label)

7004 1160 0002 8100 5100

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

AUG 29 2007

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

CT CORPORATION

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ YesU.S. Postal Service[®]CERTIFIED MAIL[®] RECEIPT

(Domestic Mail Only. No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage

\$

Certified Fee

Return Receipt Fee
(Endorsement Required)Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$

Postmark
Here

Sent To

Merck & Co, Inc.

Street, Apt. No.,
or PO Box No.

c/o CT Corporation System

City, State, ZIP+4

PS Form 3800, June 2002

See Reverse for Instructions